LINE OF DUTY INVESTIGATION

TERMINAL LEARNING OBJECTIVE

Demonstrate knowledge of the different Line of Duty determinations and the proper procedures for initiating a Line of Duty investigation; know the factors that influence the outcome of a Line of Duty investigation.

TERMINAL LEARNING OBJECTIVE

In Accordance With:

- **AR 600-8-4**
- **DA PERSCOM Memo dtd 24 Aug 98** ***(Delegation of Authority for Approving Certain Line of Duty Investigations)***
- **USAMEDCOM Memo dtd 4 Nov 98** ***(Implementing Instructions for Delegation of Authority for Approving Certain Line of Duty Investigations (LODIs))***

Enabling Learning Objectives

A. Identify the basic concepts of LD determinations and investigations

B. Match the different responsibilities regarding LD investigations, determinations, and administration to the appropriate position or agency

C. Identify the six statutory reasons for conducting a LD investigations

Enabling Learning Objectives

D. Identify the types of, reasons for, and requirements for LD investigations and when an investigation is not necessary to make a determination

E. Identify the standards applicable to LD determinations

F. Identify some of the special medical treatment considerations affecting LD investigations and determinations

Enabling Learning Objectives

G. Identify the Line of Duty determinations and basic rules of application

H. Identify the roles and functions of MTF/PAD personnel in the LD process

I. Identify the roles, responsibilities, and procedures regarding the delegation of authority for approving certain LDIs (Line of Duty Investigations)

Definitions

Line of duty determinations -

essential for protecting the interest of both the individual concerned and the U.S. Government where service is interrupted by injury, disease, or death.

Line of duty investigations –

A fact-finding mission conducted to determine whether misconduct or negligence was involved in the circumstances surrounding the injury, disease, or death of a soldier, and to what degree.

Applicability

- Active Duty
- Army National Guard and Reserve
- Cadets of the U.S. Military Academy
- Senior ROTC cadets
- Members of other US Armed Forces
- Army applicants

Responsibilities

- Secretary of the Army
- Deputy Chief of Staff, G-1
- Commanding General, U.S. Army Human Resources Command
- Chief, National Guard Bureau
- Major continental U.S. Army commanders
- Major overseas commanders and continental U.S. casualty area commanders

Responsibilities

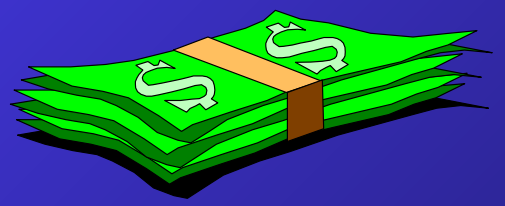
- Final approving authority
  - The General Court-Martial Convening Authority (GCMCA) —
- Appointing authority
  - The LD appointing authority is normally the Special Court-Martial Convening Authority (SPCMCA) for the soldier who is the subject of the LD investigation. For the ARNG, the LD appointing authority should be a commander of at least a battalion- or squadron-size unit to which the soldier is assigned or attached at the time of the incident.
- Unit commanders
- State Adjutants General
- Casualty area commander

Responsibilities

- Medical Treatment Facility commanders
  - The MTF commander or an authorized representative (attending physician or patient administrator) will ensure that section1 of DA Form 2173 is promptly completed when a condition outlined in paragraph 2-3 exists. The MTF commander makes determinations that involve —
  - *a.* Total physical incapacitation of a soldier for more than 24 hours because of the abuse of alcohol or other drugs (para 4-10a).
  - *b.* Conditions that existed prior to service (EPTS) and diseases not related to misconduct or negligence.

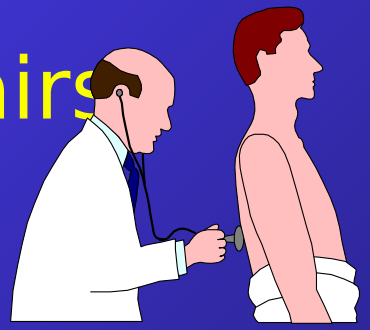
Line of Duty Determinations

- Extension of Enlistment
- Longevity and Retirement Multiplier
- Forfeiture of Pay
- Disability Retirement and Severance Pay



Line of Duty Determinations

- Medical and dental care for soldiers on duty other than AD for a period of more than 30 days.
- Benefits administered by the Department of Veterans' Affairs



Types of LODI

- Presumptive (Determination)
- Informal
- Formal

Type of LODI

- **Presumptive**
  - **circumstances imply that it was in line of duty**
  - **no evidence of misconduct, negligence, or unauthorized absence**
  - **Only DA Form 2173, Statement of Medical Examination and Duty Status**

Type of LODI

- **Presumptive - Instances when used:**
  - **(1) Death due to natural causes**
  - **(2) Injury or death while passenger in an aircraft**
  - **(3) Injury or death as a direct result of performance of duty**

Type of LODI

- **Presumptive - Instances when used:**

  (4) Temporarily disabling injury

  (5) Injury while participating in military athletics

  (6) Disease, when no evidence of misconduct, doubtful circumstance or AWOL

Types of Investigations

- **Informal**
  - **evidence is gathered so a finding can be made**
  - **no evidence of misconduct, negligence, or unauthorized absence**
  - **Only DA Form 2173 is used**
  - **The final determination can result in a determination of “in LD” only.**

Types of Investigations

- **Informal - Instances when used:**

  (1) Injury or death as a result of a motor vehicle accident

  (2) Death while participating in military athletics

  (3) Injury or death while pilot or co-pilot of military aircraft

Types of Investigations

- **Informal - Instances when used:**
  - **(4) Injury or death occurring while traveling directly from active duty**
  - **(5) Injury to reservists on ADT/IDT**
  - **(6) When presumptive is inappropriate and formal is not required**

Types of Investigations

- **Formal**
  - **DA 2173 (normally) and DD Form 261 *(Report of investigation – Line of Duty)***
  - **Required for:**

    (1) Injury, disease, or medical condition

    - under doubtful circumstances

    - apparently due to misconduct or willful negligence

    (2) Injury or death involving abuse of alcohol or other drugs

Types of Investigations

- **Formal Required for:**

(3) Self inflicted injuries or suicide

(4) Injury or death occurred while AWOL

(5) Injury or death while enroute to final acceptance in Army

(6) Death of USAR or ARNG soldier participating in authorized training

Types of Investigations

- **Formal Required for:**

(7) Injury or death of USAR or ARNG member traveling to or from authorized training or duty

(8) USAR or ARNG serving on active duty tour 30 days or less disabled due to disease (EPTS/Service Aggravation)

(9) In connection with an appeal of unfavorable finding of abuse of alcohol or drugs

(10) Other cases when requested or directed

LD Determination Standards

- Intentional misconduct or willful negligence is "not in LD-due to own misconduct" Simple or ordinary negligence or carelessness, standing alone, does not constitute misconduct
- Presume in LD unless refuted by substantial evidence
- Determinations must be supported by substantial evidence

Special Medical Considerations

- Venereal disease – Alone, will not support a misconduct determination
- Pregnancies – Exempt from LD investigations
- Hernia – In LD, unless documented EPTS

LD Determination

- In Line of Duty (LD)
  - Incurred, contracted, or aggravated while the soldier was on active duty, training in active or reserve status, excused from duty or training or was AWOL and was mentally unsound at inception of absence
  - Not proximately caused by soldier's intentional misconduct or willful negligence

LD Determination

- **Not in Line of Duty - Not Due to Own Misconduct (NLD-NDOM)**
  - **Incurred, contracted, or aggravated while the soldier was AWOL (and was mentally sound at the time)**
  - **Not proximately caused by soldier's intentional misconduct or willful negligence**

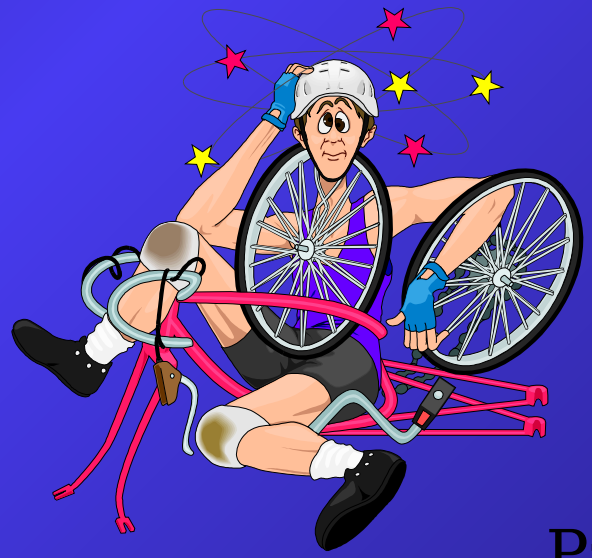
LD Determinations

- **Not in Line of Duty - Due to Own Misconduct (NLD-DOM)**
  - **Was proximately caused by the intentional misconduct or willful negligence**

Basic Rules of Application

- **Basic presumption is *YES***

  Simple or ordinary negligence or carelessness, standing alone, does not constitute misconduct.

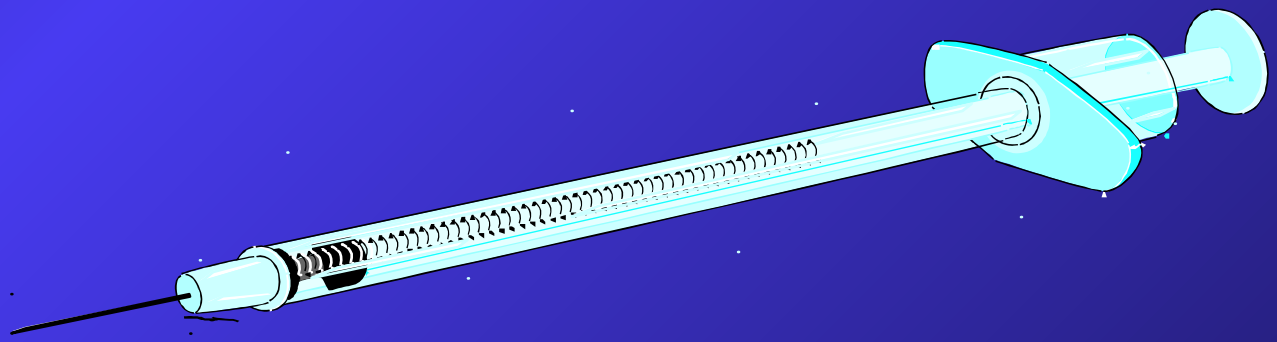


Basic Rules of Application

- The basic presumption of yes can be overcome by applying some basic rules.
  - Misconduct or willful negligence
    - The act must be intentional
    - The act must be one that a reasonable person would expect to cause injury
    - The act must be the direct cause of the injury or disease

Basic Rules of Application

- Unauthorized absences - AWOL, deserter, failure to repair
- Incapacitation due to alcohol abuse or other drugs



Basic Rules of Application

- Resisting arrest
- Handling explosives or firearms

Basic Rules of Application

- Wrongful aggression
- Operating a vehicle while unfit

Basic Rules of Application

- Reckless conduct
- Suicide attempt
- Existed Prior to Service (EPTS) conditions - not service aggravated

Basic Rules of Application

- All AD deaths on or after 10 Sep 01 require an LD determination
- Considered in LD unless -

  - Death occurred while soldier was not serving on AD

  - Death was the result of the soldier's intentional misconduct or willful negligence, or

  - Death occurred while AWOL
- Formal investigation required if intentional misconduct, willful negligence or unauthorized absence

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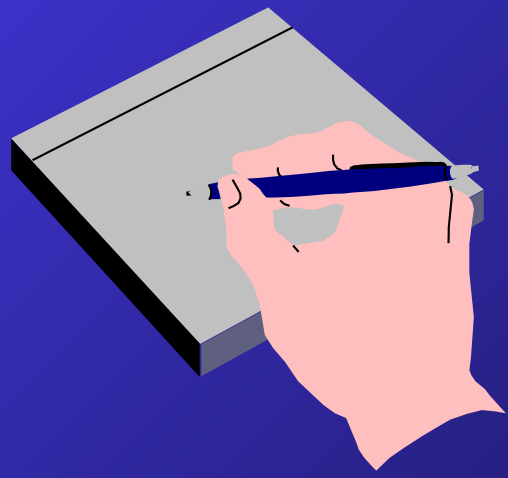
PAD'S Role in the Line of Duty Process

- Complete Section I, DA Form 2173
- Send original to the unit commander through locally established installation SOP
- For ARNG, the MTF will send the original DA Form 2173 to the State MILPO for the soldier's unit.
- 5 days after incident or treatment



DA Form 2173 .

PAD'S Role
(Approving Certain LDIs)

- **Authorization Guidance – DA PERSCOM Memo dtd 24 Aug 98 *(Delegation of Authority for Approving Certain Line of Duty Investigations)***

- **Specific Instructions – USAMEDCOM Memo dtd 4 Nov 98 *(Implementing Instructions for Delegation of Authority for Approving Certain Line of Duty Investigations (LODIs))***

PAD'S Role
(Approving Certain LDIs)

AUTHORITY:

Commander, Human Resources Command

Commander, Army MTF

Chief, MTF admin division responsible for MEB processing

PAD'S Role
(Approving Certain LDIs)

Authority:

May make findings of "in line of duty, not due to own misconduct" *only* for cases of active component soldiers appearing before Medical Evaluation Boards (MEB) when soldier's injuries were incurred in the following categories of activities…

PAD'S Role
(Approving Certain LDIs)

Certain LDI Categories:

1. **All training accidents to include maneuvers and airborne operations.**
2. **All Physical Training related injuries, whether performed as an individual or as part of a unit.**
3. **All injuries incurred during unit or organizational sporting or recreational activities provided there was not alcohol involvement**

PAD'S Role
(Approving Certain LDIs)

Certain LDI Categories:

4. **All slip and fall injuries which occur at *ground level.***
5. **Injuries which were incurred in Vietnam, Cambodia, and Thailand (4 Aug 64-27 Jun 73), or in other geographical areas where U.S. Army soldiers are no longer present.**

PAD'S Role
(Approving Certain LDIs)

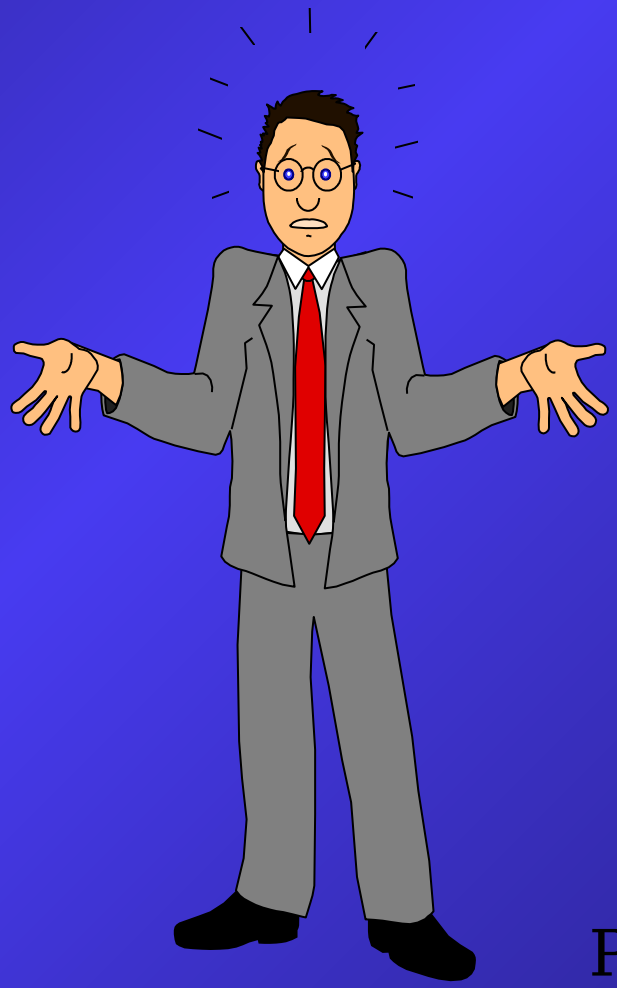
Additional MEDCOM stipulations:

- **If soldier sought medical care within 30 days of the injury and there is nothing to suggest misconduct, PEBLO may request a presumptive in line of duty (PILD) finding**
- **If soldier *did not* seek medical care within 30 days of injury, request for LODI must be sent to Human Resources (Line of Duty Section)**

Problems

- Delays in initiating
- 2173 being held
- 2173 not done if soldier treated at TMC
- No tracking
- Follow-up care for RC soldiers

QUESTIONS???



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Summary